IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 27TH JULY 2006 / 5TH SRAVANA 1928

TRC.No. 302 of 2001

(AITA NO.13/1988 OF THE AGRL. ITAT, KOZHIKODE BENCH)

PETITIONER/APPELLANT/ASSESSEE:

NILAMBUR RUBBER COMPANY LIMITED, BEACH ROAD, CALICUT.

BY ADV. SRI.M.RAMESH CHANDER
SRI.P.RAGHUNATH

RESPONDENTS/RESPONDENTS:
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1. **ADDL. AGRICULTURAL INCOME TAX OFFICER-II, KOZHIKODE.**

2. **KERALA AGRL. INCOME TAX APPELLATE TRIBUNAL, ADDL. BENCH KOZHIKODE.**

3. **STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY, THIRUVANANTHAPURAM.**

BY SPL. GOVERNMENT PLEADER (SHRI V.V. ASOKAN)

THE ABOVE T.R.C. HAVING BEEN FINALLY HEARD ON 27.7.2006 ALONG WITH TRC NOS.306/01 & 310/01, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C. N. RAMACHANDRAN NAIR &
K. M. JOSEPH, JJ.

T.R.C. NOS.302/01, 306/01 & 310/01

Dated this the 27th day of July, 2006

JUDGMENT

C. N. Ramachandran Nair, J.

The Tax Revision Cases arise from the orders of the Tribunal finally disposing of Appeals against agricultural income tax assessments for the years 1980-81, 1981-82 and 1982-83. We heard the learned counsel appearing for the petitioner and also the learned Special Government Pleader appearing for the respondents.

2. The first question raised is against the estimation of addition of income from cashew from three acres of land. The specific case of the petitioner is that the area is under encroachment by others, and the petitioner is not able to collect any crop from cashew trees, if any, standing in those three acres of land. We find that the Village Officer has certified encroachment and physical possession held by others. The only reason for addition is lack of proof of relevant date of

encroachment or date of dispossession from petitioner's custody. When the petitioner produces Certificate from Revenue Authorities who have confirmed encroachment, it is for the Department to investigate and find out whether during the relevant years there was no encroachment, and that the petitioner had taken the yield. In the absence of any finding, we feel that the tribunal should have accepted the Certificate issued by the Village Officer. In such circumstances, we delete the estimated addition of income from cashew from trespassed areas covered by Certificate issued by the Village Officer.

3. The next question is with regard to estimation of income from cardamom. It is conceded that in the previous years also, income from cardamom was estimated as the value declared was low. Therefore, there is general lack of acceptance of petitioner's Accounts, even for preceding years. In the circumstances, we do not find any ground to interfere with the estimation of income from cardamom which is purely a finding of fact, confirmed by the tribunal. We, therefore, reject this

contention.

4. The third issue raised is against valuation of closing stock of coffee. It is conceded that coffee is pooled for auction by Coffee Board. According to petitioner, the closing stock valuation was based on value furnished by pool agents. It is conceded that as and when higher value, if any, received on sale of closing stock, that will be declared in the subsequent years. Since the assessments involved pertain to the three years, i.e. 1980-81, 1981-82 and 1982-83, even subsequent assessments would have been over years back. Therefore, we leave this matter to be decided by the assessing officer who is directed to verify the subsequent assessments and declaration of higher value, if any, by the petitioner on the date of closing stock for all the years. Petitioner has followed the same counting practice and receipt of income from Coffee Board conceded and in the subsequent years, there is no changed pattern of accounting followed by the petitioner and assessments for the three years should be made based on the regular pattern of accounts

followed by the petitioner. On the other hand, if the Officer finds that higher income received for the closing stock was not conceded in the subsequent years, the assessments as sustained by the tribunal will stand.

5. So far as the disallowance of expenditure of various items raised before us, we do not think such expenditure is incurred for earning agricultural income. However, if any expenditure disallowed was later allowed by this Court, then there will be a direction to the Officer to allow it.

6. Petitioner will produce a copy of this Judgment before the Assessing Officer for re-verification and for modification of the assessments as directed above.

The TRCs are disposed of as above.

C. N. RAMACHANDRAN NAIR, JUDGE

K. M. JOSEPH, JUDGE

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C.N. RAMACHANDRAN NAIR &
K. M. JOSEPH, JJ.

TRC 302, 306 & 310/01

JUDGMENT

27th July, 2006.